

BENJAMIN W. SMITHSON.

[To accompany bill H. R. 630.]

DECEMBER 19, 1856.

Mr. BUFFINTON, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, to whom was referred the memorial of Benjamin W. Smithson, respectfully report :

The evidence in the case shows that Benjamin W. Smithson was captain of company K, in the third regiment of Missouri mounted volunteers ; that he entered the service of the United States in 1847 to serve during the Mexican war ; that he was marched to New Mexico with his regiment and stationed at Taos ; that on the 31st of October Captain Smithson tendered his resignation to Colonel Newby, of the Illinois volunteers, then in command of that military department ; that, after this, Captain Smithson continued in command of his company, by order of Colonel Newby, until his resignation was accepted by the Secretary of War, it having been sent by Colonel Newby to the Adjutant General, who submitted the same to the Secretary of War, with a recommendation that Captain Smithson be discharged, to take effect from the 1st of November, the day after the date of the resignation. This recommendation was approved by the Secretary of War, and communicated, by the Adjutant General, to Colonel Newby in a letter dated January 4, 1848. Captain Smithson remained in his command at Taos until the order of the Adjutant General was communicated to him by Colonel Newby, which was about the 1st of April, 1848. The committee are of the opinion that an order from the Secretary of War could not take effect in New Mexico two months before the date of the same at Washington, and four months before the reception of the same in New Mexico. Such a thing is impossible, and should not weigh, in the opinion of the committee, against the payment of Captain Smithson for the time he remained in the army, between the date of his resignation and the reception of its acceptance. The committee accordingly report a bill.

